

SENATE BILL 1276
By Ramsey

AN ACT to amend Tennessee Code Annotated, Title 4,
Chapter 5, relative to the Small Business
Regulatory Flexibility Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 4, Chapter 5, is amended by adding
Sections 2 through 7 of this act as a new Part 4.

SECTION 2. This part shall be known and may be cited as the "Small Business
Regulatory Flexibility Act".

SECTION 3. As used in this part, unless the context otherwise requires:

(1) "Proposed rule" means a proposal by an agency for a new rule or for a
change in, addition to, or repeal of an existing rule;

(2) "Rule" means each agency statement of general applicability, without regard
to its designation, that implements, interprets, or prescribes law or policy, or describes
the organization, procedure, or practice requirements of any agency. The term includes
the amendment or repeal of a prior rule, but does not include:

(A) Statements concerning only the internal management of any agency
and not affecting private rights or procedures available to the public;

(B) Declaratory orders issued pursuant to § 4-5-223; or

(C) Intra-agency or interagency memoranda; and

(3) "Small business" means a business entity, including its affiliates, that is
independently owned and operated and employs fewer than fifty (50) full-time
employees or has gross annual sales of less than six million dollars (\$6,000,000).

SECTION 4. Prior to the adoption of any proposed rule that may have an adverse impact on small businesses, each agency shall prepare an economic impact statement that:

- (1) Identifies and estimates the number of small businesses subject to the proposed rule;
- (2) Projects reporting, record keeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record;
- (3) States the probable effect on impacted small businesses; and
- (4) Describes any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.

SECTION 5.

(a) Prior to the filing of any proposed rule with the secretary of state on and after the effective date of this act each agency shall prepare a regulatory flexibility analysis in which the agency shall, where consistent with health, safety, and environmental and economic welfare, consider utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing the adverse impact on small businesses. The agency shall consider, without limitation, each of the following methods of reducing the impact of the proposed rule on small businesses:

- (1) Establish less stringent compliance or reporting requirements for small businesses;
- (2) Establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (3) Consolidate or simplify compliance or reporting requirements for small businesses;

(4) Establish performance standards for small businesses to replace design or operational standards required in the proposed rule; and

(5) Exempt small businesses from all or any part of the requirements contained in the proposed rule.

(b) Prior to the adoption of any proposed rule that may have an adverse impact on small businesses, each agency shall notify the department of economic and community development of its intent to adopt the proposed rule. The department of economic and community development shall advise and assist agencies in complying with the provisions of this section.

SECTION 6.

(a) For any rule subject to this part, a small business that is adversely affected or aggrieved by such rule is entitled to judicial review of agency compliance with the requirements of this section.

(b) A small business may seek judicial review until one (1) year from the date the rule is filed.

SECTION 7.

(a) Within four (4) years of the effective date of this act, each agency shall review all agency rules existing at the time of the effective date to determine whether such rules should be amended or rescinded. The agency shall attempt to minimize any adverse economic impact of the rules on small businesses in a manner consistent with the stated objective of authorizing statutes. If the head of the agency determines that completion of the review of existing rules is not feasible by the established date, the agency shall publish a statement certifying that determination. The agency may extend the completion date by one (1) year at a time for a total of not more than five (5) years.

(b) Rules adopted after the effective date of this act shall be reviewed every five (5) years to ensure that the rules minimize economic impact on small businesses and are still consistent with the stated objectives of applicable statutes.

(c) In reviewing rules to minimize their adverse economic impact on small businesses, the agency shall consider the following factors:

(1) Continued need for the rule;

(2) Nature of complaints or comments received concerning the rule from the public;

(3) Complexity of the rule;

(4) Extent to which the rule overlaps, duplicates, or conflicts with other federal, state, and local governmental rules; and

(5) Degree to which technology, economic conditions, or other factors have changed the impact of, or the necessity for, the rule.

SECTION 8. This act shall take effect upon becoming a law, the public welfare requiring
It.